vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.577 OF 2006

M.S. Bhosale ... Appellant
V/s.
Vidhya Pralhad Gondane & ors. ... Respondents

Mr.Kishor Patil for Appellant
Mr.S.M. Kamble for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**
DATED: **JULY 13, 2007**

P.C.:

. The appellant brings to my notice the fact that the impugned order in Civil Appeal No.10 of 2001 has been passed by the Additional District Judge, Kalyan on 4.8.2004 in favour of the appellant in that Civil Appeal i.e., the predecessor of the respondents herein. However, the original plaintiff had passed away on 9.7.2002 and her heirs were not on record beofre the appellate Court.

2. This order, therefore, must be set aside since a litigation cannot be continued in the name of a person who is dead, without bringing on record his or her legal heirs. Admittedly, the heirs of the original plaintiff were not brought on record after her death and, therefore, the impugned order cannot be sustained.

3. The impugned order in Civil Appeal No.10 of 2001 dated 4.8.2004 is therefore set aside. Second Appeal allowed accordingly.